

EXHIBIT B
AGREEMENT
(POST 90-DAY ASSESSMENT OPTION)

This Agreement is made this ____ day of _____, 200____, by and between the Plaintiffs' Steering Committee ("PSC") appointed by the United States District Court for the District of Minnesota in MDL No. 1708 and **[FILL IN THE NAME OF THE FIRM EXECUTING THE AGREEMENT]** (hereinafter "the Participating Attorneys").

WHEREAS, the United States District Court for the District of Minnesota has appointed Elizabeth J. Cabraser, Richard J. Arsenault, Seth Lesser and Charles S. Zimmerman to serve as members of the Lead Counsel Committee (the "LCC") and other individuals to serve as members of the Plaintiffs' Steering Committee ("PSC") to facilitate the conduct of pretrial proceedings in the federal actions relating to the marketing, sales, and use of Guidant defibrillators and pacemakers.

WHEREAS, the LCC and the PSC, in association with other attorneys working for the common benefit of plaintiffs have developed or are in the process of developing work product which will be valuable in the litigation of the MDL and state court proceedings involving Guidant defibrillator and/or pacemaker induced injuries and marketing and sales practices (the "LCC and PSC Work Product") and

WHEREAS, the Participating Attorneys are desirous of acquiring the LCC and PSC Work Product and establishing an amicable, working relationship with the LCC and PSC for the mutual benefit of their clients;

NOW, THEREFORE, in consideration of the covenants and promises contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. With respect to each client who they represent in connection with a Guidant defibrillator and/or pacemaker related claim which is filed or pending in any Federal court, unfiled or subject to a tolling agreement, each of the Participating Attorneys shall deposit or cause to be deposited in an MDL Fee and Cost Account established by the District Court in the MDL, a percentage proportion of the gross amount recovered by each such client which is equal to _____ percent of the gross amount of recovery by each such client. For purposes of this Agreement, the gross amount of recovery shall include the present value of any fixed and certain payments to be made to the plaintiff or claimant in the future.

2. The Participating Attorneys, on behalf of themselves, their affiliated counsel, and their clients, hereby grant and convey to the LCC a lien upon and/or a security interest in any recovery by any client who they represent in connection with any Guidant defibrillator and/or pacemaker induced injury and marketing and sales practices, to the full extent permitted by law, in order to secure payment in accordance with the provisions of paragraph 1 of this Agreement. The Participating Attorneys will undertake all actions and execute all documents which are reasonably necessary to effectuate and/or perfect this lien and/or security interest.

3. The amounts deposited in the MDL Fee and Cost Account shall be available for distribution to attorneys who have performed professional services or incurred expenses for the benefit of the plaintiffs in MDL No. 1708 and any coordinated state court litigation pursuant to written authorization from the Liaison counsel of the LCC. Such sums shall be distributed only upon an Order of the Court in MDL No. 1708 which will be issued in accordance with applicable law governing the award of fees and costs in cases involving the creation of a common benefit. Appropriate consideration will be given to the experience, talent and contribution made by all of those authorized to perform activities for the common benefit, including the Participating Attorneys.

4. As the litigation progresses and work product of the same type and kind continues to be generated, the LCC and/or the PSC will provide Participating Attorneys with such work

product and will otherwise cooperate with the Participating Attorneys to coordinate the MDL litigation and the state litigation for the benefit of the plaintiffs.

5. No assessment will be paid by the Participating Attorneys on any recovery resulting from a medical malpractice claim against a treating physician.

6. It is understood and agreed that the LCC, the PSC and Common Benefit Attorneys may also apply to the Court for class action attorneys' fees (including any multiplier) and reimbursement of costs, if appropriate, and this Agreement is without prejudice to the amount of fees and costs to which the LCC, the PSC and Common Benefit Attorneys may be entitled to in such an event.

7. Upon execution of this Agreement, the LCC will provide to the Participating Attorneys, to the extent developed, the PSC Work Product, including access to the PSC's virtual depository.

8. The Participating Attorneys shall have the following rights:

- a. Full participation in discovery matters and appropriate committee assignments with full recognition of the participation of the Participating Attorneys;
- b. Appropriate participation and consultation in settlement negotiations;
- c. Appropriate participation in trials, class matters, management, fund administration and allocation of fees and costs.

9. Both the LCC and the Participating Attorneys recognize the importance of individual cases and the relationship between case-specific clients and their attorneys. Regardless of the type of settlement or conclusion eventually made in either state or federal matters, the LCC will recommend to Judge Frank that appropriate consideration will be given to individual case contracts between attorneys and their clients and to work that has been performed by attorneys in their individual cases.

The LCC agrees that, should there be a global settlement against any defendant(s), with the possibility of opt-outs under Rule 23(b)(3), the LCC will complete discovery against any such defendant(s).

The Participating Attorneys represent that the list appended hereto as Exhibit “A” correctly sets forth the name of each client represented by them who has filed a civil action arising from the use marketing and sales of Guidant defibrillators and/or pacemakers, together with the Court and docket number of each such case and that the list attached hereto as Exhibit “B” contains the name and social security number of each client represented by them who has not yet filed a civil action arising from the use marketing and sales of Guidant defibrillators and/or pacemakers.

10. The Participating Attorneys shall supplement the lists appended hereto as Exhibit “A” and “B” on a quarterly basis.

11. This Agreement shall apply to each and every claim or action arising from the use marketing, or sale of Guidant defibrillators and/or pacemakers in which the Participating Attorneys have a right to a fee recovery.

PLAINTIFFS’ LEAD COUNSEL COMMITTEE

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AND

By:

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[Firm Name]